

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4354 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE R.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?

2. To be referred to the Reporter or not?

3. Whether Their Lordships wish to see the fair copy of the judgement?

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge?

1 to 5 :No

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KAIDWA BAGABHAI GOKABHAI

Versus

STATE OF GUJARAT

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Appearance:

MR BM JOSHI for Petitioners

MR VB GHARANIYA,AGP for Respondent No. 1

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CORAM : MR.JUSTICE R.A.MEHTA

Date of decision: 03/03/98

ORAL JUDGEMENT

1. The petitioner had applied for NA permission for residential construction. The DDO had granted NA permission by an order dated 8th January 1986. It provided for 20 feet wide internal roads.

2. It appears that before granting that permission, he had asked for the opinion of the Deputy Town Planner

and the Deputy Town Planner had given his opinion on 29th October 1985 before the NA permission was granted and in that opinion, it was suggested that the internal road should be 25 feet wide. This was perhaps not given any consideration and, therefore, in the revision, the State Government has cancelled the NA permission. There is some doubt about the compliance with the Ribbon Development Rules as to whether such rules are applicable.

3. Being aggrieved by that order, the petitioners have preferred this petition. Initially, the Court had granted interim order directing the parties to maintain status quo.

4. It appeared that this matter has unnecessarily remained pending for 12 years. If the revisional authority was of the opinion that the suggestion of the Deputy Town Planner is not considered, the revisional authority itself could have considered it and passed an appropriate order or remanded the matter instead of simply cancelling the NA permission. The question regarding Ribbon Development Rules also could have been considered properly. It is the contention of the petitioners that for such internal roads, 20 feet width is sufficient and reasonable and 25 feet width is merely a suggestion of the Town Planning Department which may be desirable, but not necessary.

5. Regarding the Ribbon Development Rules, it is contended that such rules will have no application to these internal roads. These are the questions on which the original authority should apply the mind and decide the questions.

6. It is, therefore, necessary that the proceedings are remanded to the original authority for fresh decision in accordance with law. Since the matter is unnecessarily delayed for 12 years, now it is high time that the matter is decided at the earliest.

7. In the result, the petition partly succeeds and rule is made absolute by quashing and setting aside the orders of both the authorities granting N.A.permission and cancelling the NA permission and the original authority is directed to consider the question afresh in accordance with law and decide the same expeditiously. In any case, on receipt of writ of this Court, the authority shall issue notices to the petitioners and decide the same within one month from the first date of hearing. Direct Service.

The packet to be given to Shri B.N.Patel, learned  
advocate for the petitioners for direct service.

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mhs/-